

issue, the portion to which their respective parents would have been entitled ; that is, he gives to each family of children one-fifth of the money, after deducting the share awarded to the widow for her life estate ; and the remaining three-fifths, he assigns to the surviving children. This distribution was made upon the hypothesis, that the whole estate passed by the will, and, that the children of the deceased children of the testator, succeeded to the interests of their respective parents, which was the view taken by the draftsman of the bill.

This view, however, is, in my judgment, erroneous, inas-much as the inheritance did not pass under the will ; but, as the proportions awarded to the parties by this account, are precisely the same as they would be, if the inheritance had been regarded by the Auditor as undisposed of by the will, there is no reason why another account should be stated. In either aspect of the case, the result would be the same, and sending the case back to the Auditor would be accumulating costs for no object.

The idea was thrown out in the course of the argument, that under this devise the widow took the entire estate ; but, I did not understand, that it was very seriously pressed, and it appeared to me manifest, that such a construction would be clearly repugnant to the intention of the testator, and, therefore, wholly inadmissible. The language of the will is clear and explicit, that she should hold for life, and "*no longer*," and although in a previous part of the clause, the words "*in fee-simple*" are employed, it is obvious they were not used in the sense attributed to them.

An order will pass ratifying the first account of the Auditor.

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[No appeal was taken in this case.]